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OFFICE OF PETITIONS

In re Application of	:	
FURUTA, SATOSHI	:	
Application No. 10/558,935	:	DECISION ON PETITION
Filed: 12/01/2005	:	
Attorney Docket No. 4700.P0320US	:	

This is a decision on the petition under 37 CFR 1.181, filed March 24, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

On July 26, 2007, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). On October 22, 2007, petitioner filed an amendment in response to the final Office action. However, the examiner determined that the amendment did not place the application in condition for allowance and mailed an Advisory Action on November 29, 2007.

On December 26, 2007, petitioners submitted a Request for Continued Examination (RCE), a request for an extension of time for response within the second month, and the requisite fee. On January 24, 2008, petitioners filed a submission under 37 CFR 1.114 in the form of an "Amendment Before First Office Action." On February 20, 2008, the Office mailed a Notice of Improper Request for Continued Examination, stating that the RCE was not accompanied by a submission as required by 37 CFR 1.114 and that the time period set forth in the final Office action continued to run from the mailing date of that action.

On March 14, 2007, the Office mailed a Notice of Abandonment. In response, on March 24, 2008, petitioner filed the present petition. Petitioners assert they filed a complete and timely reply to the final Office action. Specifically, petitioners aver that they submitted an "Amendment Before First Office Action," in compliance with the submission requirement under 37 CFR 1.114, to complete the filing requirements for the RCE. Petitioners argue

that the amendment corresponding to the submission requirement under 37 CFR 1.114 was filed on January 24, 2008, within the six-month statutory period for reply, and therefore, corrected the improper RCE filing.

A review of the file reveals that the USPTO received the Amendment, which included a certificate of mailing date of January 22, 2008. Additionally, petitioners previously filed a general authorization to charge any fees to the Deposit Account. Accordingly, the Amendment is considered timely filed on January 22, 2008, with an extension of time for response within the third month. See 37 CFR 1.8(a) and 1.136(a).

The petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted.

As an extension of time for response within the third month is necessary, the Office will charge the \$1050.00 three-month extension of time fee and refund the \$460.00 two-month extension of time fee to the Deposit Account.

The matter is being referred to Technology Center Art Unit 1621 for a review of the reply filed on January 24, 2008 (certificate of mailing dated January 22, 2008).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

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